

MELINDA HAAG (CABN 132612)
United States Attorney
MIRANDA KANE (CABN 150630)
Chief, Criminal Division
OWEN P. MARTIKAN (CABN 177104)
Assistant United States Attorney
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Telephone: (415) 436-7241
Facsimile: (415) 436-7234
owen.martikan@usdoj.gov

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.
GIUSEPPE PENZATO and KESIA
PENZATO,

Defendants.

CR 11-70696 MAG

**STIPULATION AND ~~PROPOSED~~
ORDER CONTINUING DATE FOR
PRELIMINARY HEARING OR
ARRAIGNMENT TO JANUARY 24,
2012**

This case is currently set for preliminary hearing or arraignment on Monday, December 19, 2011. The parties have been in pre-indictment negotiations, and the Government recently produced transcripts of translated recordings that both parties need to review. Defense counsel has informed Government counsel that additional recordings may exist, which would need to be translated from Portuguese to English. In order to further negotiations in this case, and to account for time during the holidays when defendants will be unavailable to their counsel, the parties request that the preliminary hearing and arraignment date be continued to January 24, 2012.

1 The parties further stipulate and ask the Court to order that time should be excluded from
2 the Speedy Trial Act calculations from December 19, 2011, through January 24, 2012, for
3 continuity of counsel and effective preparation of defense counsel, given the additional discovery
4 that has been produced, the defendants' absence from the district during the holidays, and the
5 contemplated further exchange of information and discovery between the parties. The parties
6 represent that granting the continuance would allow the reasonable time necessary for effective
7 preparation of defense counsel, while exercising due diligence. 18 U.S.C. § 3161(h)(7)(B)(iv).

8 The parties further stipulate that the ends of justice served by granting such a continuance
9 outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §
10 3161(h)(7)(A). For the same reasons, the parties stipulate and ask the Court to continue the
11 preliminary hearing until January 24, 2012, pursuant to Fed. R. Crim. P. 5.1(d).

12 SO STIPULATED:

13 MELINDA HAAG
14 United States Attorney

15 DATED: December 16, 2011

16 /s/
OWEN P. MARTIKAN
Assistant United States Attorney

18
19 DATED: December 16, 2011

20 /s/
GAIL SHIFMAN
Attorney for Defendant Kesia Penzato

21
22 DATED: December 16, 2011

23 /s/
DOUG SCHWARTZ
Attorney for Defendant Giuseppe Penzato

~~PROPOSED~~ ORDER

Per the parties' stipulation and for the reasons stated above, the preliminary hearing or arraignment for this matter is continued from December 19, 2011, to January 24, 2012. An exclusion of time from December 19, 2011, to January 24, 2012, is warranted because the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §3161 (h)(7)(A). The failure to grant the requested continuance would deny the defendant continuity of counsel, and would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C. §3161(h)(7)(B)(iv).

SO ORDERED.

DATED: 12/19/11

